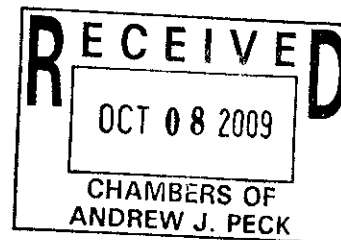


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NEW YORK, NEW YORK 10005
TELEPHONE: (212) 509-1616
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BY FAX

BY FAX ONLY

October 7, 2009

U.S. Magistrate Judge Andrew Peck
U.S. District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

*Per my contact RJG on 10/7/09
11/7/09 I will be a settlement conference.*

RE: Rene Canales, et al., v. 115 Broadway Corp. et al., 09 Civ. 4674 (RJS)(AJP)

SO ORDERED:

[Signature]
Hon. Andrew Jay Peck
United States Magistrate Judge

Dear Magistrate Judge Peck:

This firm represents the Plaintiffs and putative class in the above referenced matter and I write in furtherance of Judge Sullivan's August 26, 2009 Order instructing the parties to contact you for purposes of settlement by October 16, 2009. *Dkt. Entry No. 10.*

Plaintiffs are amenable to participating in a settlement conference but believe it is premature at this time in the litigation. Since the District Court issued its August 26, 2009 Order referring the parties to Your Honor for a settlement conference, it issued an Order and Opinion granting Plaintiffs' motion for conditional certification of this case as a collective action pursuant to the Fair Labor Standards Act. *Dkt. Entry No. 31.* It also ordered Defendants to provide Plaintiffs with the names and addresses of the individuals who worked for Defendants between May 18, 2003 and present and ordered the parties to provide the Court with a jointly proposed Notice and Consent form by October 23, 2009. Once the Notice and Consent form is approved by the Court, notice will be sent and former and current employees of Defendants will have a period of time to opt in to this case. Plaintiffs contend that only after the notice and opt in period conclude would this matter be ripe for a settlement conference.

Based on the above, Plaintiffs respectfully request that Your Honor delay the scheduling of a settlement conference consistent with the above or schedule a settlement conference in March or April 2010.

Respectfully yours,

[Signature]

Bruce E. Menken

BEM:os

cc: Joseph LaBuda, Esq.

Jamie Felsen, Esq. (By Fax Only)

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
Telephone No.: (212) 805-0036

Dated: October 9, 2009

Total Number of Pages: 2

TO	FAX NUMBER
Bruce Eric Menken, Esq.	212-509-8088
Jamie Scott Felsen, Esq. Joseph Martin Labuda, Esq.	516-328-0082

TRANSCRIPTION:

MEMO ENDORSED 10/9/09

Parties are to contact the Court on or before 1/15/2010 to schedule a settlement conference.

Copy to: Judge Richard J. Sullivan